

516E.10 Prohibited acts unfair or deceptive trade practices.

1. Misrepresentations, false advertising, and unfair practices.

a. Unless licensed as an insurance company, a service company shall not use in its name, contracts, or literature, the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other service company.

b. A service company shall not, without the written consent of the purchaser, knowingly charge a purchaser for duplication of coverage or duties required by state or federal law, a warranty expressly issued by a manufacturer or seller of a product, or an implied warranty enforceable against the lessor, seller, or manufacturer of a product.

c. A provider, service company, or third-party administrator shall not make, permit, or cause a false or misleading statement, either oral or written, in connection with the sale, offer to sell, or advertisement of a service contract.

d. A provider, service company, or third-party administrator shall not permit or cause the omission of a material statement in connection with the sale, offer to sell, or advertisement of a service contract, which under the circumstances should have been made in order to make the statement not misleading.

e. A provider, service company, or third-party administrator shall not make, permit, or cause to be made a false or misleading statement, either oral or written, about the benefits or services available under the service contract.

f. A provider, service company, or third-party administrator shall not make, permit, or cause to be made a statement of practice which has the effect of creating or maintaining a fraud.

g. A provider, service company, or third-party administrator shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the service contract industry or with respect to a provider, service company, or third-party administrator which is untrue, deceptive, or misleading. It is deceptive or misleading to use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a manufacturer or of such a nature that the use would tend to mislead a person into believing that the solicitation is in some manner connected with the manufacturer, unless actually authorized or issued by the manufacturer.

h. A bank, savings and loan association, credit union, insurance company, or other lending institution shall not require the purchase of a service contract as a condition of a loan.

2. Defamation. A provider, service company, or third-party administrator shall not make, publish, disseminate, or circulate, directly or indirectly, or aid, abet, or encourage the making, publishing, disseminating, or circulating of an oral or written statement or a pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of a person, and which is calculated to injure the person.

3. Boycott, coercion, and intimidation. A provider, service company, or third-party administrator* agreement to commit, or by a concerted action commit, an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the service contract industry.

4. *False statements.* A provider, service company, or third-party administrator shall not knowingly file with a supervisory or other public official, or knowingly make, publish, disseminate, circulate, or deliver to a person, or place before the public, or knowingly cause directly or indirectly to be made, published, disseminated, circulated, delivered to a person, or placed before the public, a false material statement of fact as to the financial condition of a person.

5. *False entries.* A provider, service company, or third-party administrator shall not knowingly make a false entry of a material fact in a book, report, or statement of a person or knowingly fail to make a true entry of a material fact pertaining to the business of the person in a book, report, or statement of the person.

6. *Used or rebuilt parts.* A service company shall not repair a motor vehicle covered by a service contract with any of the following:

a. Used parts, unless the service company receives prior written authorization by the vehicle owner.

b. Rebuilt parts, unless the parts are rebuilt according to national standards recognized by the insurance division.

7. *Marketing.* A provider, service company, or third-party administrator shall not market, advertise, offer to sell, or sell a service contract by using personal information obtained in violation of the federal Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq.

8. *Violations of section 714.16.*

a. A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is an unfair practice as defined in section 714.16.

b. An enforcement agreement between the commissioner and a provider, service company, or third-party administrator does not bar the attorney general from bringing an action against the provider, service company, or third-party administrator under section 714.16 as to allegations that a violation of this chapter constitutes a violation of section 714.16.

90 Acts, ch 1145, §8

C91, §321I.11

98 Acts, ch 1189, §5; 2000 Acts, ch 1147, §7, 15

C2001, §516E.10

2005 Acts, ch 70, §34

*The words "shall not enter into an" probably intended; corrective legislation is pending